



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

IN REPLY REFER TO:  
3500.1M (UT-923)  
UTU- 78188

APR 28 2003

CERTIFIED MAIL--Return Receipt Requested  
Certification No.

Mr. Don W. Fullmer  
Paradise Management  
1025 North Main Street  
P.O. Box 268  
Fillmore, UT 54631

Re: Breach of lease terms or conditions, Mining with out an approved Plan of Operations on  
Federal Clay Lease UTU-78188

### Notice of Default of Lease Terms or Conditions

It was reported and verified by a telephone conversation between yourself and Mr. Stan Perkes of BLM that clay was produced from the referenced lease in the time frame of January 2003 to March 2003. On December 4, 2002 you were notified in writing that mining could not take place on your lease until a Plan of Operations was approved by BLM. Because mining has taken place subsequent to the instructions given in the December 4, 2002 letter, BLM is implementing the conditions in Article XX of your lease and notifying you that you are in default. If the default lasts for 30 days after receipt of this letter BLM "may issue (a) written notice of termination and cancellation of this lease." BLM requires the following within 30 days after receipt of this letter to correct the default of lease terms or conditions.

1. Provide this office with a report giving the amount of production during the time period, where the ore was shipped, and final disposition selling price.
2. You must comply and submit the information requested in the letter of December 4, 2002. If surveys cannot be completed due to weather conditions, then a schedule must be submitted when they will be completed and sent to the BLM for approval.

If you fail to submit this information, as your lease provides "at the expiration of said period of thirty (30) days immediately following such notice if the default or breach has not been remedied, at the option of the Lessor, Lessor may issue written notice of termination and cancellation of this lease and forfeiture declaring that the leased premises and each and every part thereof have thereby reverted to the Lessor, . . . " At this time BLM will require that the lease be reclaimed.

RECEIVED  
APR 30 2003  
DIV. OF OIL, GAS & MINING  
5/1/03  
MFW



Appeal Rights

Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,

**James F. Kohler**

James F. Kohler  
Chief, Solid Minerals Branch

cc: Mary Ann Wright, Utah Division of Oil, Gas and Mining, 1594 west North Temple, P.O.  
Box 145801 Salt Lake City, Utah 84114-5801